UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,313	04/12/2004	Tim Bucher	390-017-USP/STL12994.00	2577

64776   7590   07/26/2007
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ART UNIT	PAPER NUMBER
2192	

MAIL DATE	DELIVERY MODE
07/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/822,313	BUCHER ET AL.
	Examiner	Art Unit	
	Cheneca P. Smith	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *5/8/2007*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-29* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-29* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *12 April 2004* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *6/20/2005*.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Remarks

1.   Applicants' amendment and response dated May 8, 2007, responding to the February 8, 2007 Office Action provided in the rejection of claims 1-29, wherein claims 1, 4-6, 8-18, and 26-29 have been amended. Thus, claims 1-29 remain pending in this application and have been fully considered by the examiner.

Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claim Objections

2.   Claim 7 is objected to because it recites the limitation "reestablishing

communication." It appears that claim 7 depends on claim 6 instead of claim 1 and has

been examined as such. However, appropriate correction is required.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claims 1, 2, 8, 9,10, 18, 20, 22-24, 26 rejected under 35 U.S.C. 102(b) as being

anticipated by Brebner (European Patent Application EP1211596 A1).

As to claim 1, Brebner teaches a method comprising:

storing a data structure that defines hardware resources and software resources of a

local device at a computer associated with the local device (see page 4, paragraph

[0027], *conformity server with a database having information therein loaded which is*

representative of typical configurations of machines fitted for some different software

configurations),

establishing communication with a remote service distribution system (see page 4,

paragraph [0027], the monitoring agent is also fitted with means for getting a connection

to service providers on the Internet network, and particularly to one conformity server),

and

requesting a service from the remote service distribution system, the service

including transmission of software to the local device, wherein definitions of the

hardware resources and software resources of the local device from the data structure

are transmitted to the remote service distribution system as part of the service request

(see page 5, paragraphs [0037], *local agent prepares a request for a transaction, which*

is then transmitted to monitoring server; the request contains the details of the PC

software configuration as well as the details of the PC hardware).

As to claim 2, Brebner teaches the method of claim 1, wherein the computer

associated with the local device comprises a network appliance that operates as a

gateway to the Internet for the local device (see page 4, paragraph [0028], *a user's*

computer is connected to a communication network).

As to claim 8, Brebner teaches a system comprising a network interface module

configured to provide an interface to a remote device (see FIG.1, 4 and paragraph

[0028], *because the client can connect to either the conformity server or the accessories*

server through the network (FIG.1, 2), then the accessories server must be configured

to provide an interface to the client to allow the connection), at least one service

available to the remote device (see page 3, paragraph [0024], *the local conformity agent*

pushes the response received into to the web browser for the purpose of allowing the

user to complete the transaction), as well as a resource analysis module configured to

analyze hardware resources on the remote device in relation to the at least one service

(see page 5, paragraph [0038]).

As to claim 9, Brebner teaches a storage device that stores software packages pertaining to the at least one service (see FIG. 1: 3, 4 and paragraph [0028]).

As to claim 10, Brebner teaches where the network interface module is an Internet interface that connects to the Internet and provides a public interface, wherein the public interface provides limited access to the system (see Figure 1, paragraph [0028], *a user's computer is connected to a communication network such as an Internet or Intranet network for instance* and paragraph [0029]).

As to claim 18, Brebner teaches a method comprising:

establishing a connection with a remote device (see page 4, paragraph [0027], *the monitoring agent is also fitted with means for getting a connection to service providers on the internet network, and particularly to one conformity server*);

identifying hardware resources on the remote device (see page 5, paragraph [0034], *hardware data is extracted from the machine*),

displaying a list of available services that are compatible with the hardware resources on the remote device (*page 4, paragraph [0030], information displayed to the user for informing the user that an upgrade operation of his computer is appropriate or even necessary,* and page 5, paragraphs [0042] and [0045], *the HTML page is received by the monitoring agent, which can then push it into the web browser for the purpose of displaying it to the user*) ,

receiving a request to perform at least one service including at least one initial service (see page 5, paragraphs [0037], *local agent prepares a request for a*

transaction, which is then transmitted to monitoring server; the request contains the

details of the PC software configuration as well as the details of the PC hardware), and

performing the at least one service (see page 3, paragraph [0024], *the local*

conformity agent pushes the response received into to the web browser for the purpose

of allowing the user to complete the transaction).

As to claim 20, Brebner teaches the method of claim 18, further comprising, if

the hardware resources available on the remote device were not fully identified,

prompting a user of the remote device to manually input the hardware resources

available on the remote device (see page 8, paragraph [0064], *if the comparison reveals*

a lack of hardware resources, then the process proceeds to where monitoring agent

informs the user of the corresponding lack of resources).

As to claim 22, Brebner teaches the method of claim 18, wherein identifying the

hardware resources available on the remote device further comprises accessing a data

structure associated with remote device defining the hardware resources available on

the remote device (see page 4, paragraph [0029], *an internal system service is used for*

automatically gathering technical parameters regarding the user's PC and for storing

them into a profile file).

As to claim 23, Brebner teaches the method of claim 18, wherein displaying a list

of available services that are compatible with the hardware resources available on the

remote device further comprises analyzing available services in relation to the hardware

resources available on the remote device (see page 5, paragraph [0038]).

As to claim 24, Brebner teaches the method of claim 18, wherein the request to

perform at least one service is received at the service distribution system from the

remote device via the Internet (see page 4, paragraph [0027], *the monitoring agent is*

also fitted with means for getting a connection to service providers on the internet

network, and particularly to one conformity server and see page 5, paragraphs [0037],

local agent prepares a request for a transaction, which is then transmitted to monitoring

server).

As to claim 26, Brebner teaches a method comprising:

establishing a connection with a remote device (see page 4, paragraph [0027],

the monitoring agent is also fitted with means for getting a connection to service

providers on the internet network, and particularly to one conformity server);

identifying hardware and software resources available on the remote device (see

page 4, paragraph [0032], *software packages installed in the machine are analyzed;*

hardware data is extracted from the machine),

analyzing the hardware and software resources available on the remote device in

relation to one or more services available on a service distribution system (see page 5,

paragraph [0038]), and

displaying a list of services that would enhance the hardware and software

resources available on the remote device (see page 4, paragraph [0030], *information*

displayed to the user for informing that an upgrade operation of his computer is

appropriate or even necessary, and page 5, paragraphs [0042] and [0045], *the HTML*

page is received by the monitoring agent, which can then push it into the web browser

for the purpose of displaying it to the user).

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 3-7, 11-17, 19, 21, 25, 27-29 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Brebner (EP 1211596 A1) in view of Cheng et al. (US Patent

6,151,643).

As to claim 3, Brebner teaches the limitations of claim 1, but does not specifically

teach storing information at the computer specifying that the follow-up service is

available. In an analogous art, however, Cheng teaches how the user is notified of new

updates and products by email as they become available (see column 5, lines 24-30). It

would have been obvious to one having ordinary skill in the art at the time the invention

was made to combine the teachings of Brebner and Cheng in order to provide users

with an easier way for identifying which updates are available for their systems and

resolving the technical difficulties in obtaining and installing the correct updates, as

disclosed by Cheng (see column 2, lines 48-51).

As to claim 4, Cheng further teaches wherein the follow-up service comprises an

upgrade of the software (see column 5, lines 18-21).

As to claim 5, Brebner in view of Cheng teaches where a follow-up service associated with the software is available from the remote service distribution system at a later time than the service, but does not specifically teach that the follow-up service comprises an extension module of the software. However, it is well known in the art that upgrades to software typically include software patches and other revisions, service packs, or new releases that will provide enhanced functionality. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that an upgrade to the software would also contain an enhancement of the software disclosed in Cheng's invention.

As to claim 6, Cheng further teaches reestablishing communication with the remote service distribution system at a later time based on the information specifying that a follow-up service is available such that the follow-up service can be provided to the local device (see column 5, lines 24-32).

As to claim 7, Cheng further teaches wherein reestablishing communication is performed automatically and without user initiation thereof (see column 20, lines 4-13).

As to claim 11, Cheng further teaches wherein the network interface module is an Internet interface that connects to the Internet and provides a private interface, wherein the private interface provides secure access to an outlet for purposes of uploading additional software to the system (see column 6, lines 16-20 and lines 40-45).

As to claim 12, Cheng further teaches wherein the network interface module is connected to the Internet via a data connection (see column 13, lines 12-17).

As to claim 13, Cheng further teaches wherein the at least one service includes both initial services and follow-up services, wherein initial services are performed immediately upon request and follow-up services are performed at a later time (see column 5, lines 10-17 and lines 24-32).

As to claim 14, Cheng further teaches wherein the initial services include the ability to download software packages to operate on the remote device. (see column 3, lines 41-45).

As to claim 15, Cheng further teaches wherein the follow-up services include automatically updating an initial service on a remote device when an update to the initial service becomes available (see column 7, lines 5-8).

As to claim 16, Brebner teaches wherein the hardware resources are analyzed in relation to the at least one service to determine which services are compatible with the remote device (see page 5, paragraph [0038]).

As to claim 17, Cheng further teaches wherein the resource analysis module is further configured to identify software resources available on the remote device, wherein and the software resources are analyzed in relation to the at least one service to determine which services would enhance the identified software resources (see column 7, lines 46-50).

As to claim 19, Cheng further teaches reestablishing a connection with the remote device and performing any requested follow-up services (see column 5, lines 24-32).

As to claim 21, Cheng further teaches establishing a connection with a remote device further comprises providing a public interface that is publicly accessible over the Internet (see column 6, lines 25-28) and establishing a connection with a remote device via the public interface. (see column 3, lines 27-29).

As to claim 25, Cheng further teaches performing the at least one initial service comprises transmitting at least one software package to the local device (see Abstract, which describes how the selected updates are downloaded from the software vendor computer systems and installed on the client computers).

As to claim 27, Cheng further teaches establishing a connection with the remote device further includes providing an interface that is publicly accessible over the Internet (see column 6, lines 25-28) and establishing a connection with a remote device via the interface (see column 3, lines 27-29).

As to claim 28, Brebner teaches if the remote device has not previously connected to the service distribution system, identifying software and hardware resources available on the remote device by receiving information specifying the software and hardware resources from the remote device (see page 5, paragraph [0038]), and if the remote device has previously connected to the service distribution system, identifying software resources available on the remote device (see page 5, paragraph [0038]) and accessing a data structure including available hardware resources of the remote device (see page 4, paragraph [0029], *an internal system service is used for automatically gathering technical parameters regarding the user's PC and for storing them into a profile file)*. However, he does not specifically teach

analyzing whether the remote device has previously connected to the service

distribution system. In an analogous art, Cheng teaches analyzing whether the remote

device has previously connected to the service distribution system (see column 15, lines

37-41 and lines 60-62). It would have been obvious to one having ordinary skill in the art

at the time the invention was made to combine the teachings of Brebner and Cheng in

order to provide users with an easier way for identifying which updates are available for

their systems and resolving the technical difficulties in obtaining and installing the

correct updates, as disclosed by Cheng (see column 2, lines 48-51).

As to claim 29, Cheng further teaches eliminating services which would not be

compatible with hardware resources available on the remote device and determining if

any of the non-eliminated services would enhance software resources on the remote
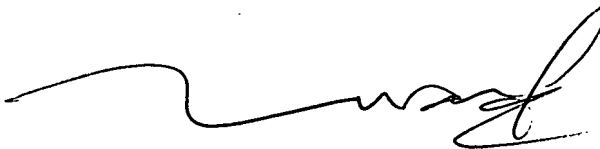
device (see column 8, lines 29-31).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Cheneca P. Smith whose telephone number is (571)

270-1651. The examiner can normally be reached on Monday-Friday 7:00-4:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tuan Dam can be reached on (571) 272-3695. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

C.S.
7/6/2007

TUAN DAM
SUPERVISORY PATENT EXAMINER